

Message Text

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ORIGIN L-03

INFO OCT-01 AF-06 ISO-00 CCO-00 CIAE-00 OTPE-00 EB-07

FCC-02 INR-07 NSAE-00 OC-05 USIA-15 COME-00 BIB-01

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DRAFTED BY L/T:GSBELL:RVW

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P 232038Z JUN 75

FM SECSTATE WASHDC

TO AMEMBASSY LAGOS PRIORITY

UNCLAS STATE 147183

E.O. 11652: N/A

TAGS: ETEL, NI

SUBJECT: THE AGREEMENT RELATING TO THE INTERNATIONAL
TELECOMMUNICATIONS SATELLITE ORGANIZATION "INTELSAT"
(INTER-GOVERNMENTAL AGREEMENT) AND THE OPERATING AGREEMENT
RELATING TO THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE
ORGANIZATION "INTELSAT" (OPERATING AGREEMENT)

1. AN INSTRUMENT OF ACCESSION TO THE INTER-GOVERNMENTAL
AGREEMENT WAS DEPOSITED WITH THE UNITED STATES GOVERNMENT
BY NIGERIA ON OCTOBER 25, 1972. ON THAT SAME DATE THE
OPERATING AGREEMENT WAS SIGNED AT THE INSISTENCE OF THE
NIGERIAN EMBASSY ON BEHALF OF TWO ENTITIES: NIGERIA'S
MINISTRY OF COMMUNICATIONS AND THE NIGERIAN EXTERNAL
TELECOMMUNICATIONS LIMITED. THESE TWO ENTITIES WERE
DESIGNATED BY THE GOVERNMENT OF NIGERIA TO BE ITS SIGNATORY
TO THE OPERATING AGREEMENT IN ACCORDANCE WITH ARTICLE II(B)
OF THE INTER-GOVERNMENTAL AGREEMENT. ONLY ONE ENTITY
SHOULD HAVE BEEN DESIGNATED.

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2. FOR OVER TWO YEARS THE NIGERIAN EMBASSY IN WASHINGTON HAS BEEN AWARE OF THE PROBLEMS ARISING FROM THE SITUATION OF HAVING TWO ENTITIES AS SIGNATORY TO THE OPERATING

AGREEMENT. HOWEVER, NOW THAT THE INTELSAT BOARD OF GOVERNORS WILL BE CONSIDERING AN AGREEMENT BETWEEN INTELSAT AND NIGERIA AT THEIR JULY 6, 1975 MEETING, INTELSAT IS SEEKING THE ASSISTANCE OF THE UNITED STATES GOVERNMENT, AS DEPOSITARY FOR THE INTELSAT AGREEMENTS, IN RESOLVING THE MATTER BEFORE THAT DATE. INTELSAT NEEDS TO KNOW WHICH ENTITY AS SIGNATORY TO THE OPERATING AGREEMENT IS LEGALLY RESPONSIBLE FOR ITS ACTIONS.

3. IN NOVEMBER 1973, MR. UDOYEN, SECOND SECRETARY OF THE NIGERIAN EMBASSY, INFORMED THE DEPARTMENT THAT THE DESIGNATION OF TWO ENTITIES WAS A MISTAKE ON THE NIGERIAN GOVERNMENT'S PART AND THAT CONSEQUENTLY, THE DEPARTMENT WAS REQUESTED TO REMOVE NIGERIA'S MINISTRY OF COMMUNICATIONS AS ONE OF THE TWO ENTITIES SIGNATORY TO THE OPERATING AGREEMENT. AS THE NIGERIAN EMBASSY WAS INFORMED BY THE DEPARTMENT IN NOVEMBER 1973, REPEAT 1973, THE ONLY WAY TO RESOLVE THE PROBLEM IS TO RE-DESIGNATE ONE ENTITY TO BE THE NEW SIGNATORY IN SUBSTITUTION FOR THE PREVIOUS TWO ENTITIES SIGNATORY TO OPERATING AGREEMENT, IN ACCORDANCE WITH ARTICLE XVI(F) OF THE INTER-GOVERNMENTAL AGREEMENT. THIS INFORMATION WAS REPEATED TO THE NIGERIAN EMBASSY BY BOTH THE DEPARTMENT AND INTELSAT OFFICIALS SEVERAL TIMES SINCE JUNE 12, 1975, BUT THE NIGERIAN EMBASSY DOES NOT APPEAR TO BE WILLING TO COOPERATE IN CONVEYING THIS INFORMATION TO ITS FOREIGN OFFICE.

4. EMBASSY LAGOS IS THEREFORE URGENTLY REQUESTED TO APPROACH THE NIGERIAN FOREIGN OFFICE SUGGESTING TELEGRAPHIC DESIGNATION BY THE FOREIGN MINISTER OF ONE TELECOMMUNICATIONS ENTITY TO BE SIGNATORY TO THE OPERATING AGREEMENT IN SUBSTITUTION FOR NIGERIA'S MINISTRY OF COMMUNICATIONS AND THE NIGERIAN EXTERNAL TELECOMMUNICATIONS LIMITED WHICH SIGNED THE OPERATING AGREEMENT ON OCTOBER 25, 1972. ALSO REQUIRED IS A TELEGRAM FROM THE NEWLY-DESIGNATED ENTITY AUTHORIZING AN INDIVIDUAL TO SIGN THE OPERATING

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AGREEMENT ON ITS BEHALF AND STATING THAT UPON BECOMING SIGNATORY TO THE OPERATING AGREEMENT, THE NEWLY-DESIGNATED ENTITY ASSUMES, IN ACCORDANCE WITH ARTICLE XVI(F) OF THE AGREEMENT, ALL OUTSTANDING OBLIGATIONS OF THE PREVIOUS SIGNATORY, THE NIGERIAN MINISTRY OF COMMUNICATIONS AND THE NIGERIAN EXTERNAL TELECOMMUNICATIONS LIMITED. THE AUTHORIZED INDIVIDUAL MAY THEN MAKE AN APPOINTMENT WITH THE OFFICE OF THE ASSISTANT LEGAL ADVISER FOR TREATY

AFFAIRS, TELEPHONE 632-0464, TO SIGN THE OPERATING AGREEMENT ON BEHALF OF THE NEW ENTITY BEFORE THE JULY 6, 1975 MEETING REFERRED TO ABOVE. INGERSOLL

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Message Attributes

Automatic Decaptioning: X
Capture Date: 01 JAN 1994
Channel Indicators: n/a
Current Classification: UNCLASSIFIED
Concepts: AGREEMENTS, COMMUNICATION SATELLITES, INTERNATIONAL ORGANIZATIONS
Control Number: n/a
Copy: SINGLE
Draft Date: 23 JUN 1975
Decaption Date: 01 JAN 1960
Decaption Note:
Disposition Action: n/a
Disposition Approved on Date:
Disposition Authority: n/a
Disposition Case Number: n/a
Disposition Comment:
Disposition Date: 01 JAN 1960
Disposition Event:
Disposition History: n/a
Disposition Reason:
Disposition Remarks:
Document Number: 1975STATE147183
Document Source: CORE
Document Unique ID: 00
Drafter: GSBELL:RVW
Enclosure: n/a
Executive Order: N/A
Errors: N/A
Film Number: D750218-0199
From: STATE
Handling Restrictions: n/a
Image Path:
ISecure: 1
Legacy Key: link1975/newtext/t19750624/aaaaavmt.tel
Line Count: 118
Locator: TEXT ON-LINE, ON MICROFILM
Office: ORIGIN L
Original Classification: UNCLASSIFIED
Original Handling Restrictions: n/a
Original Previous Classification: n/a
Original Previous Handling Restrictions: n/a
Page Count: 3
Previous Channel Indicators: n/a
Previous Classification: n/a
Previous Handling Restrictions: n/a
Reference: n/a
Review Action: RELEASED, APPROVED
Review Authority: ShawDG
Review Comment: n/a
Review Content Flags:
Review Date: 04 MAR 2003
Review Event:
Review Exemptions: n/a
Review History: RELEASED <04 MAR 2003 by PhilliR0>; APPROVED <10 MAR 2004 by ShawDG>
Review Markings:

Margaret P. Grafeld
Declassified/Released
US Department of State
EO Systematic Review
06 JUL 2006

Review Media Identifier:
Review Referrals: n/a
Review Release Date: n/a
Review Release Event: n/a
Review Transfer Date:
Review Withdrawn Fields: n/a
Secure: OPEN
Status: NATIVE
Subject: THE AGREEMENT RELATING TO THE INTERNATIONAL TELECOMMUNICATIONS SATELLITE ORGANIZATION "INTELSAT"
TAGS: ETEL, NI, INTERSAT
To: LAGOS
Type: TE
Markings: Margaret P. Grafeld Declassified/Released US Department of State EO Systematic Review 06 JUL 2006